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Shelby Cnty Judge of Probate, AL  
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Parcel Identification Number: 02-7-35-0-001-003.000

THIS DOCUMENT PREPARED BY AND  
AFTER RECORDING RETURN TO:

Valerie L. Combs, Esq.  
Troutman Sanders LLP  
600 Peachtree Street, NE  
Suite 5200  
Atlanta, Georgia 30308

Cross Reference:

Instrument No. 20080617000246500,  
Shelby County, Alabama records

**FIRST AMENDMENT TO CONSTRUCTION MORTGAGE  
WITH ABSOLUTE ASSIGNMENT OF LEASES AND  
RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

This First Amendment to Construction Mortgage with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing ("**Amendment**") is dated September \_\_\_\_, 2010, effective as of July 16, 2010 (the "**Effective Date**"), by and between **RIVER GLEN VILLAGE, LLC**, a Georgia limited liability company, whose address is 2221 Peachtree Road, Atlanta, Georgia 30309 ("**Mortgagor**"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, as Agent for the Lenders (as defined in the Mortgage), whose place of business is 7000 Central Parkway NE, Suite 600, Atlanta Georgia 30328, Attention: Office Manager ("**Administrative Agent**");

**RECITALS**

- A. Pursuant to the terms of a Building Loan Agreement between Mortgagor and Administrative Agent dated June 16, 2008 ("**Loan Agreement**"), the Lenders made a loan to Mortgagor in the principal amount of Twenty-Six Million Five Hundred Thousand and No/100ths Dollars (\$26,500,000.00) ("**Loan**"). The Loan is evidenced by certain Promissory Notes Secured by Mortgage dated as of the date of the Loan Agreement, executed by Mortgagor in favor of each Lender, in the aggregate principal amount of the Loan ("**Note**"), and is further evidenced by the documents described in the Loan Agreement as "Loan Documents".

- B. The Note is secured by, among other things, a Construction Mortgage, with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing ("**Mortgage**") dated June 16, 2008, executed by Mortgagor in favor of Administrative Agent, as Mortgagee. The Mortgage was recorded June 17, 2008, as instrument number 20080617000246500 in the Office of the Judge of Probate of Shelby County, Alabama.
- C. The Note, Mortgage, Loan Agreement, this Amendment, the other documents described in the Loan Agreement as "Loan Documents", together with all modifications and amendments thereto and any document required hereunder, are collectively referred to herein as the "Loan Documents". Capitalized terms used herein and not otherwise defined shall have the meaning given thereto in the Mortgage.
- D. The Loan matured on July 16, 2010, and Mortgagor has requested that Administrative Agent and Lenders extend the maturity date and make certain other amendments to the Loan Documents, and Administrative Agent, Lenders and Mortgagor are in connection herewith entering into that certain First Modification Agreement to be dated on or about the date hereof to effect said extension and other modifications (the "**First Modification**"); and
- E. Administrative Agent and Lenders have agreed to amend the Mortgage as hereinafter provided.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, and the sum of Ten and No/100 Dollars (\$10.00), paid in hand by each party to the other, the receipt, adequacy and sufficiency of all of which are hereby acknowledged, the parties agree as follows:

1. Extension of Maturity Date. Administrative Agent and Mortgagor hereby acknowledge that pursuant to the First Modification the Maturity Date recited in the Note is being extended to July 16, 2011. Any reference in the Mortgage to the Maturity Date of the Loan shall hereafter mean July 16, 2011.

2. Amendment of Loan Documents. The Mortgage is amended hereby such that all references therein to the "Mortgage" shall be deemed to include all amendments and modifications thereto (including, without limitation, this Amendment), as may now exist or as may be hereafter executed by Mortgagor and Administrative Agent. Further, the Mortgage is amended hereby such that all references therein to the "Note" and the "Loan Agreement" shall be deemed to include all amendments and modifications thereto (including, without limitation, the First Modification), as may now exist or as may be hereafter executed by Mortgagor and Administrative Agent.

3. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same instrument; and any signature page from any such counterpart or any electronic facsimile thereof may be attached or appended to any other counterpart to complete a fully executed counterpart of this Amendment and any telecopy or other facsimile transmission of any signature shall be deemed an original and shall bind such party.



4. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of Alabama.

5. Binding; Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.

6. Ratification. The Loan Documents, as amended herein and by the First Modification, remain in full force and effect in accordance with their respective terms, and Mortgagor and Administrative Agent hereby ratify and affirm the same. Mortgagor acknowledges that it is fully obligated under the terms of the Mortgage, that it has no offsets or defenses with respect to its obligations thereunder, and that it has no claims or counterclaims against Administrative Agent or any of the Lenders, whether related to the Loan or otherwise.

7. No Novation. Mortgagor, Administrative Agent, and Lenders hereby agree that nothing herein or in the other Loan Documents, as modified hereby, shall in any way waive Administrative Agent's or Lenders' rights, powers or remedies under the Loan Documents; (ii) shall in any way limit, impair or prejudice Administrative Agent or Lenders from exercising any past, present or future right, power or remedy from and after the date hereof under the Loan Documents; and (iii) shall not constitute or be deemed to be a novation of the indebtedness evidenced and secured by the Loan Documents.

8. Incorporation of Recitals. The recitals set forth at the beginning of this Amendment are confirmed by the parties as true and correct and are incorporated herein by reference. The recitals are a substantive, contractual part of this Amendment.

THE MORTGAGE, AS AMENDED HEREBY, IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-9A-502(c) OF THE CODE OF ALABAMA.

THE MORTGAGE, AS AMENDED HEREBY, IS A "CONSTRUCTION MORTGAGE" AS DEFINED IN SECTION 7-9A-334(h) OF THE CODE OF ALABAMA AND SECURES, AMONG OTHER OBLIGATIONS, AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND.

THE MORTGAGE, AS AMENDED HEREBY, IS A FUTURE ADVANCE MORTGAGE and it is expressly understood that the Mortgage, as amended hereby, is intended to and does secure not only existing Secured Obligations, but also future advances of Secured Obligations including without limitation any and all extensions, renewals, modifications and refinancings of same, or any part thereof, existing at any time before actual cancellation of this instrument on the probate records of the county or counties where the Property is located, and whether the same be evidenced by note, open account, assignment, endorsement, guaranty, pledge or otherwise.

*[Remainder of page intentionally left blank]*



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IN WITNESS WHEREOF, Mortgagor and Administrative Agent have executed and sealed this Amendment as of the day and year first above written.

**MORTGAGOR:**

**RIVER GLEN VILLAGE, LLC,**  
a Georgia limited liability company

By: [Signature] (SEAL)  
Name: Bradley Johnson  
Its: Manager

STATE OF GA  
COUNTY OF FULTON

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Bradley Johnson, whose name as Manager of River Glen Village, LLC, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this 10 day of September, 2010.

[Signature]  
Notary Public

[Affix Notarial Seal]

My Commission Expires



[Signatures continue on following page]



[Signatures continued from previous page]

"ADMINISTRATIVE AGENT"

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION,**  
a national banking association

By: E. W. Ormond  
Name: E. W. Ormond  
Its: VP

(SEAL)

STATE OF GEORGIA

COUNTY OF FULTON

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that E. W. Ormond, whose name as Vice-President of Wells Fargo Bank, National Association, a national banking association, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this 27 day of September, 2010.



Valeri McLaughlin

Notary Public

My Commission Expires: 7/10/2012